O. W. 71 & 72—658,414—21-11-30.

19 32

Department of Wool

OFFICE Bureau

STATION Melbourne

Ge No. 1720

1720

Dated 7 6 32

A 1763/3

	Date	In
Given for copying		
Copied		
Examined		
Signed		
Given for despatch		
Despatched		
Indexed		

To

Sir,

Suits - Mangalore - Sub-court - O.S.No. 29/32 - Escheat property - Prior mortgage - Recovery of mortgage amount with interest.

enclose a copy of the plaint in the above suit, which is for a decree in favour of the plaintiff to recover from the defendants a sum of Rs. 3636/- being the principal with interest of the mortgage amount in respect of a mortgage deed of 1-12-1904 executed by the 4th defendant in favour of the plaintiff's grand-uncle, Shivappa Pergade, by hypothecat the plaint-mentioned properties.

dated 16-3-29 quoted above, the only course left open for Government is to defend the suit. The Government Pleader, Mangalore has prepared the necessary draft written statemen (copy enclosed). I request that the defence of the suit be sanctioned and the draft written statement approved.

4. A copy of the plaint dated 13-2-32 was received by me along with the summons on 30-3-32. The suit stands posted to 25-6-32. I enclose Volumes II & IV of this office file R.Dis. 1565/21 dated 12-6-31 for reference.

A. Krishnan 27/5/32

Nagaraja Pergade, minor by next friend and father Kechappajila

1. The Secretary of State for India in Council represented by the District Collector of South Kanara.

Venkatramana alias Subrava Srinivasa minors by guardian ad litem Ramachandra Upadhya

Subbamma alias Gowramma

Plaint under section 26, Schedule 1, Order VII, Rule

f Act V of 1908.

The Plaintiff abovenamed begs to state as follows.

(b) That the said estate of the aforesaid Venkatraman Shadanga was burdened with debts inter alia composed of two mortgages for Rs. 400/- and Rs. 300/- respectively.

(c) That the mortgage for Rs. 400/- was in favour of one Srinivasa Elachithayya as per registered deed dated 31-5-1898 while the mortgage for Rs. 300/- was in favour of one Mukhyaprana Kunhannaya.

(d) That for the purpose of discharging the aforesaid mortgage debts as well as for purposes wholly binding upon the estate like funeral expenses and costs of obsequies and maintenance of the widow (4th defendant) and her daughter Saraswati (since deceased) and the first anniversary of the said last male holder the aforesaid 4th defendant Subbamma executed on 16-5-1895 a mortgage for Rs. 1300/- in favour of one Govindacharya under deed dated 16-5-1895.

(h) That amounts as detailed in Schedule B below are due and remain unpaid in spite of demands.

(i) That the original mortgagee Shivappa Pergade ~~xxxx~~ having died the rights thereunder have now devolved upon the Plaintiff who is entitled to recover all the amounts with ---- future interest till date of payment.

(j) That the Defendants 2 and 3 are in possession of the assets of the estate of aforesaid Venkatramana Shadanga by virtue of a deed executed by the 4th Defendant in their favour and 1st Defendant is in possession of the mortgaged properties. And thus Defendants 1 to 3 have been made parties to the suit.

thereof may be sold and the amounts realised may be paid in pro tanto satisfaction of the decree

(d) Appointing a Receiver to collect rents and profits of the property for satisfaction in pro tanto of the suit claim

(e) granting Plaintiff such other and further reliefs as the Court deems fit to grant.

Schedule A - Description of mortgaged property.

Property situated in Pilathabettu village of Mangalor Taluk, Buntwal Sub Registration District in South Kanara:

I, Kechappajila (next friend and guardian of the ------ Plaintiff) do hereby declare that what is stated above is true to my information and belief.

Mangalore,)
)
13.2.1932.)

Plaintiff.

Nagaraja Pergade -minor by next friend
and father Kochappajila.

The Secretary of State for India in
Council and others.

Written statement of 1st defendant under order VIII rule 1 of C.P.C.

The defendant abovenamed begs to state as follows:-

1. The suit is speculative. vexatious. filed in collusion with the other defendants and is not sustainable at law.

2. This defendant does not admit that the immoveable properties described in the plaint schedule, belonged to one Venkatramana Shadanga -- the last male holder thereof, alleged in the plaint.

3. This defendant does not admit the plaint allegations that the alleged estate of Venkatramana Shadanga was burdened with debts, inter alia, of the 2 plaint mentioned mortgages for Rs. 400 or Rs. 300. This defendant. is not aware of the said mortgages and does not admit either their genuineness or validity and puts plaintiff to the strict proof thereof.

and that the said documents were got up for no real consideration with a view to lend colour to the claims which Venkatramana ----- Shadanga unjustly and dishonestly set up against the plaint and other properties and to get over the escheat claims, in respect thereof.

This defendant does not admit that the plaint correctly sets forth the various terms and provisions of the plaint mortgage deeds, and begs to refer to the document itself for its correct terms and provisions.

male holder thereof who died in about 1883 leaving no other heirs except his widow Mahalaxmi, who died in 1911. and on her death. all the properties of the said Annaya Shadanga including the plaint -- properties have escheated to the Government; and this defendant submits further that all allegations made in the plaint to the -- contrary are all false and are hereby denied, and that the plaintiff is not entitled to any relief in respect of the plaint mortgage.

The plaintiff is not entitled to the amount claimed in the plaint or for appointment of a Receiver or for any of the other reliefs claimed.

The rate of interest claimed in the plaint is penal, -- high and excessive and in any event not enforceable.

This defendant is not liable for plaintiff's costs of --

Date of Hearing 25.6.32

Subject.

Fitz (P. Kieran) Dalyalen

Order re 25/32 Sochead. Disp. &c.

Pro mar. of Agnes Sweeney